

# MEMORANDUM

May 10, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: BRIAN T. CHU  
Senior Deputy County Counsel  
General Litigation Division

RE: Bethany Tays, Trevor Tays, Melinda Wray, Neal Seth Wray, John Wray, Jr., & Estate of John Wray vs. County of Los Angeles, et al.  
Los Angeles Superior Court Case No. MC015085 (consolidated with MC014087)

DATE OF  
INCIDENT: September 6, 2002

AUTHORITY  
REQUESTED: \$100,000

COUNTY  
DEPARTMENT: DEPARTMENT OF PUBLIC WORKS

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## CLAIMS BOARD ACTION:



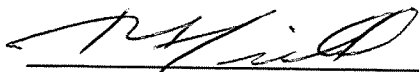
Approve



Disapprove

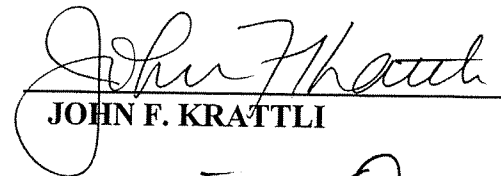


Recommend to Board of  
Supervisors for Approval



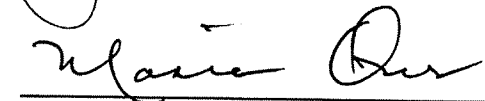
ROCKY A. ARMFIELD

, Chief Administrative Office



JOHN F. KRATTLI

, County Counsel



MARIA M. OMS

, Auditor-Controller

on June 20, 2005

## SUMMARY

This is a recommendation to settle for \$100,000, the lawsuit brought by Bethany Tays, Trevor Tays, Melinda Wray, Neal Seth Wray, John Wray, Jr., and the Estate of John Wray, seeking damages for the wrongful death of John Wray, Sr., on September 6, 2002, in an automobile accident.

## LEGAL PRINCIPLES

The County may be held liable for damages caused or contributed to by a dangerous condition of public property.

## SUMMARY OF FACTS

This accident occurred on September 6, 2002, on Pearblossom Highway between Sierra Highway and 25<sup>th</sup> Street East in unincorporated County territory. This section of Pearblossom Highway is a straight, two-way highway with a posted speed limit of 60 miles an hour. The road has two traffic lanes in each direction of travel separated by a double-yellow center line and has white edge striping on each side of the road. Pearblossom Highway met the minimum guidelines for vertical visual clearance at the posted speed and shoulder width under the CalTrans Manual.

John Wray, Sr. was driving his pick-up truck eastbound on Pearblossom Highway, east of its intersection with Sierra Highway. He had just passed a traffic collision at that intersection involving a concrete truck and other vehicles. At the same time, George Houston was driving a semi-truck westbound in the number one lane of Pearblossom Highway, west of its intersection with 25<sup>th</sup> Street East.

George Houston reached a speed of 55-60 miles an hour as he approached the crest of Pearblossom Highway. The nearest vehicle ahead of him was about four car lengths away. When he reached the crest, George Houston saw the vehicle ahead of him suddenly apply its brakes due to the traffic that had slowed for the traffic collision ahead. George Houston locked-up his brakes, causing his semi-truck to go into a skid and cross into the opposing lanes. George Houston's semi-truck collided head-on into John Wray, Sr.'s pick-up truck as it approached the crest, which resulted in the death of John Wray, Sr.

The California Highway Patrol investigated the accident and concluded that George Houston was the primary cause of the accident because he was traveling too fast for the existing traffic conditions. John Wray, Sr. appears to have been fault-free in this accident.

John Wray Sr.'s heirs, Bethany Tays, Trevor Tays, Melinda Wray, Neal Seth Wray, and John Wray, Jr., allege that Pearblossom Highway existed in a dangerous condition because it lacked a median guard rail to prevent vehicles from crossing into and colliding with opposing traffic, and because it had an inadequate shoulder width. They also allege that the road was a trap for unwary motorists because there were no warning signs advising of possibly slow or stopped traffic.

## DAMAGES

The Tays and Wray families claim the following damages and losses:

Loss of future income (present value)	\$ 1,100,000
Wrongful death damages	<u>\$ 5,000,000</u>
TOTAL:	<u>\$ 6,100,000</u>

## STATUS OF CASE

On April 25, 2005, a mediation was conducted resulting in this proposed settlement with the County. The Tays and Wray families have accepted a tendered total of \$1,744,287 from the insurers of George Houston and the principal with whom he had contracted for trailer transportation. The company owning the concrete truck and its driver are still defendants in this case. Depositions of other witnesses to the accident have yet to be taken, including retained technical experts, several law enforcement officers, and emergency personnel.

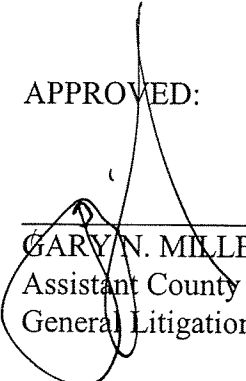
Expenses incurred by the County in the defense in this matter are attorney fees of \$34,300 and costs of \$13,340.

## EVALUATION

This is a matter of contested liability. While the physical features of the road conform to the minimum guidelines under the CalTrans Manual, the significance of the accident history on Pearblossom Highway is a triable fact issue that can result in apportioned liability. Additionally, a jury could conclude that slow or stopped traffic was not something a reasonable driver could have anticipated under these conditions, which could also affect the County's immunity for the absence of warning signs. A settlement at this time will avoid further litigation costs and a potential jury verdict in excess of the recommended settlement amount.

We believe that settlement of this matter in the amount of \$100,000 is in the best interest of the County. The Department of Public Works concurs in this settlement recommendation.

APPROVED:



A large, stylized handwritten signature in black ink is written over the signature line and extends upwards into the 'APPROVED:' text area.

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GARY N. MILLER  
Assistant County Counsel  
General Litigation Division

GNM:BTC:et